

105TH CONGRESS
1ST SESSION

S. 107

To require the offer in every defined benefit plan of a joint and $\frac{2}{3}$ survivor annuity option and to require comparative disclosure of all benefit options to both spouses.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

Mrs. BOXER introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To require the offer in every defined benefit plan of a joint and $\frac{2}{3}$ survivor annuity option and to require comparative disclosure of all benefit options to both spouses.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pension Benefits Fair-
5 ness Act”.

6 **SEC. 2. MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY** 7 **REQUIREMENTS.**

8 (a) AMENDMENTS TO ERISA.—

9 (1) AMOUNT OF ANNUITY.—

(A) IN GENERAL.—Paragraph (1) of section 205(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(a)) is amended by inserting “or, at the election of the participant, shall be provided in the form of a qualified joint and $\frac{2}{3}$ survivor annuity” after “survivor annuity,”.

(B) DEFINITION.—Subsection (d) of section 205 of such Act (29 U.S.C. 1055) is amended—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(ii) by inserting “(1)” after “(d)”, and

(iii) by adding at the end the following new paragraph:

“(2) For purposes of this section, the term “qualified joint and $\frac{2}{3}$ survivor annuity” means an annuity—

“(A) for the participant while both the participant and the spouse are alive with a survivor annuity for the life of surviving individual (either the participant or the spouse) equal to 67 percent of the

1 amount of the annuity which is payable to the par-
 2 ticipant while both the participant and the spouse
 3 are alive,

4 “(B) which is the actuarial equivalent of a sin-
 5 gle annuity for the life of the participant, and

6 “(C) which, for all other purposes of this Act,
 7 is treated as a qualified joint and survivor annuity.”.

8 (2) ILLUSTRATION REQUIREMENT.—Clause (i)
 9 of section 205(c)(3)(A) of such Act (29 U.S.C.
 10 1055(c)(3)(A)) is amended to read as follows:

11 “(i) the terms and conditions of each qualified
 12 joint and survivor annuity and qualified joint and $\frac{2}{3}$
 13 survivor annuity offered, accompanied by an illustra-
 14 tion of the benefits under each such annuity for the
 15 particular participant and spouse and an acknowl-
 16 edgement form to be signed by the participant and
 17 the spouse that they have read and considered the
 18 illustration before any form of retirement benefit is
 19 chosen,”.

20 (b) AMENDMENTS TO INTERNAL REVENUE CODE.—

21 (1) AMOUNT OF ANNUITY.—

22 (A) IN GENERAL.—Clause (i) of section
 23 401(a)(11)(A) of the Internal Revenue Code of

1 1986 (relating to requirement of joint and sur-
 2 vivor annuity and preretirement survivor annu-
 3 ity) is amended by inserting “or, at the election
 4 of the participant, shall be provided in the form
 5 of a qualified joint and $\frac{2}{3}$ survivor annuity”
 6 after “survivor annuity,”.

7 (B) DEFINITION.—Section 417 of such
 8 Code (relating to definitions and special rules
 9 for purposes of minimum survivor annuity re-
 10 quirements) is amended by redesignating sub-
 11 section (f) as subsection (g) and by inserting
 12 after subsection (e) the following new sub-
 13 section:

14 “(f) DEFINITION OF QUALIFIED JOINT AND $\frac{2}{3}$ SUR-
 15 VIVOR ANNUITY.—For purposes of this section and section
 16 401(a)(11), the term “qualified joint and $\frac{2}{3}$ survivor an-
 17 nuity” means an annuity—

18 “(1) for the participant while both the partici-
 19 pant and the spouse are alive with a survivor annu-
 20 ity for the life of surviving individual (either the par-
 21 ticipant or the spouse) equal to 67 percent of the
 22 amount of the annuity which is payable to the par-
 23 ticipant while both the participant and the spouse
 24 are alive,

1 “(2) which is the actuarial equivalent of a sin-
 2 gle annuity for the life of the participant, and

3 “(3) which, for all other purposes of this title,
 4 is treated as a qualified joint and survivor annuity.”.

5 (2) ILLUSTRATION REQUIREMENT.—Clause (i)
 6 of section 417(a)(3)(A) of such Code (relating to ex-
 7 planation of joint and survivor annuity) is amended
 8 to read as follows:

9 “(i) the terms and conditions of each
 10 qualified joint and survivor annuity and
 11 qualified joint and $\frac{2}{3}$ survivor annuity of-
 12 fered, accompanied by an illustration of
 13 the benefits under each such annuity for
 14 the particular participant and spouse and
 15 an acknowledgement form to be signed by
 16 the participant and the spouse that they
 17 have read and considered the illustration
 18 before any form of retirement benefit is
 19 chosen,”.

20 (c) EFFECTIVE DATES.—

21 (1) IN GENERAL.—The amendments made by
 22 this section shall apply to plan years beginning after
 23 December 31, 1996.

24 (2) SPECIAL RULE FOR COLLECTIVELY BAR-
 25 GAINED PLANS.—In the case of a plan maintained

1 pursuant to 1 or more collective bargaining agree-
2 ments between employee representatives and 1 or
3 more employers ratified on or before the date of en-
4 actment of this Act, the amendments made by this
5 section shall apply to the first plan year beginning
6 on or after the earlier of—

7 (A) the later of—

8 (i) January 1, 1998, or

9 (ii) the date on which the last of such
10 collective bargaining agreements termi-
11 nates (determined without regard to any
12 extension thereof after the date of enact-
13 ment of this Act), or

14 (B) January 1, 1999.

15 (3) PLAN AMENDMENTS.—If any amendment
16 made by this section requires an amendment to any
17 plan, such plan amendment shall not be required to
18 be made before the first plan year beginning on or
19 after January 1, 1999, if—

20 (A) during the period after such amend-
21 ment made by this section takes effect and be-
22 fore such first plan year, the plan is operated
23 in accordance with the requirements of such
24 amendment made by this section, and

1 (B) such plan amendment applies retro-
2 actively to the period after such amendment
3 made by this section takes effect and such first
4 plan year.

5 A plan shall not be treated as failing to provide defi-
6 nitely determinable benefits or contributions, or to
7 be operated in accordance with the provisions of the
8 plan, merely because it operates in accordance with
9 this paragraph.

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